

THE WEITZ LAW FIRM, P.A.

Bank of America Building
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Aventura, Florida 33160

May 15, 2023

VIA CM/ECF

Honorable Judge Jennifer H. Rearden
United States District Court
Southern District of New York
500 Pearl Street - Courtroom 15A
New York, NY 10007

Re: Reyes v. Yankee Pizza Restaurant Inc., et al.; Case 1:22-cv-07551-JPC

Dear Judge Rearden:

The undersigned represents the Plaintiff in the above-captioned case matter. Pursuant to Order [D.E. 26], Plaintiff shall show cause why this action should not be dismissed for failure to prosecute against Defendant Yankee Pizza Restaurant Inc.

Plaintiff states as follows. The service of the Complaint [D.E. 1] to the Defendants is served via the Department of State, who serve the Defendants by Certified Mail. Due to an 8-week delay in service due to backlogs, and as no response was forthcoming, the Plaintiff served the Defendants through personal service. Further, the Plaintiff states that he believes the Defendant Yankee Pizza Restaurant Inc., will respond. In our cases and in our experience, Defendants do not respond quickly, but eventually, after a length of time the Defendants do respond and the case moves forward. The reason this Complaint was filed was due to non-compliance with and violations against the ADA, by the Tenant/Defendant Yankee Pizza Restaurant Inc and a move for default does not remedy the situation and works against the very reason the Complaint was filed. The appearing Defendants d David 647 LLC, and 647 East 11 Ricatto LLC, are the Landlords of the subject facility where the violations took place. Therefore, the appearance of the Tenant/Defendant Yankee Pizza Restaurant Inc. is necessary and integral to this case.

For the foregoing reasons, the undersigned requests a stay until the Defendants respond. If the Court will not grant a stay, Plaintiff respectfully requests an extension of time of 45 days, to move for Default Judgment and thereby permit time for the Tenant/Defendant to contact the undersigned, make their appearance in this matter and join any current or future settlement efforts.

This Court may wish to take notice that this is the second request for extension of time with regard to the Motion for Default. Thank you for your attention to this matter.

Sincerely,

THE WEITZ LAW FIRM, P.A.

By: /S/ B. Bradley Weitz
B. Bradley Weitz, Esq. (BW9365)
Attorney for Plaintiff

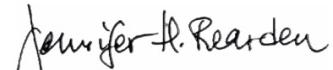
Application DENIED.

On May 8, 2023, the Court issued an Order directing Plaintiff to show cause by May 15, 2023 why this action should not be dismissed for failure to prosecute against Defendant Yankee Pizza Restaurant Inc. ECF No. 26. Plaintiff has failed to show cause. His attorney's representation that, "[i]n [his] cases and in [his] experience, Defendants do not respond quickly, but eventually, after a length of time the Defendants do respond and the case moves forward," is unavailing. *See supra* p. 1. To wit, in the eight-and-a-half months since Plaintiff commenced this action—during which time Plaintiff has requested, and the Court has granted, multiple extensions of the deadline to move for default judgment, *see* ECF Nos. 13, 19, 20, 25—Defendant Yankee Pizza Restaurant Inc. has not appeared, nor has any progress otherwise been made with respect to its participation in this matter. This Court has no reason to find that granting yet another extension, as Plaintiff now requests, will yield a different outcome.

By **May 24, 2023**, Plaintiff is directed to move for default judgment against Defendant Yankee Pizza Restaurant Inc., in accordance with the Court's Individual Rules and Practices in Civil Cases. If Plaintiff fails to so move, the Court may dismiss this action for failure to prosecute against Defendant Yankee Pizza Restaurant Inc.

The Clerk of Court is directed to terminate ECF No. 30.

SO ORDERED.


Jennifer H. Rearden, U.S.D.J.
Date: May 16, 2023